

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION

OHIO VALLEY ENVIRONMENTAL	)	
COALITION, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 3:08-0979
	)	
UNITED STATES ARMY CORPS OF	)	
ENGINEERS, et al.,	)	
Defendants.	)	
	)	

**PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION AGAINST  
THE FOLA IKE FORK NO. 1 AND NO. 2 SURFACE MINES**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs move for a preliminary injunction requiring the Defendant U.S. Army Corps of Engineers to suspend an individual permit issued by the Corps under § 404 of the Clean Water Act (CWA) to Foal Coal Company, LLC (Fola) for its Ike Fork No. 1 and No. 2 Surface Mines. Plaintiffs contend that the Corps violated its obligations under the CWA and the National Environmental Policy Act (NEPA) to provide adequate public notice and comment and to involve the public in its environmental impact analysis for these two mines. Plaintiffs also contend that this permit suffers from some of the same defects that this Court identified in its decision in OVEC v. U.S. Army Corps of Engineers, 479 F. Supp.2d 607 (S.D. W.Va. 2007). Plaintiffs seek to enjoin any further stream-filling and mining activities in the footprints of the valley fill areas prior to Fola's scheduled October 5, 2008 commencement of those activities.

Respectfully submitted,

/s/ Joseph M. Lovett  
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**CERTIFICATE OF SERVICE**

I, Joseph M. Lovett, hereby certify that on September 18, 2008, I electronically filed the foregoing Plaintiffs' Motion for a Preliminary Injunction with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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